

AMENDED IN ASSEMBLY JUNE 30, 2005

AMENDED IN ASSEMBLY JUNE 23, 2005

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 37

**Introduced by Senator Speier
(Coauthors: Senators Alquist and Kuehl)**

December 16, 2004

An act to amend Section 35179.1 of, and to add Article 6.5 (commencing with Section 49030) to Chapter 6 of Part 27 of, the Education Code, and to amend ~~Section 110423.2~~ *Sections 110423.2 and 110423.6* of the Health and Safety Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Speier. Prohibited substances.

(1) Existing law sets forth the rights and responsibilities of pupils in public schools. Existing law further requires certain school employees to comply with various educational requirements.

Existing law expresses legislative findings and declarations regarding the need for education and training for interscholastic athletic coaches. Existing law expresses the intent of the Legislature to establish a California High School Coaching Education and Training Program, that would emphasize specified components, including sport physiology, which is described as principles of training, fitness for sport, development of a training program, and nutrition for athletes, to be administered by local school districts.

This bill would, in addition, describe the component of sport physiology as instruction on the harmful effects associated with the use of steroids and performance-enhancing dietary supplements by adolescents. The bill would require each high school sports coach, as defined, to complete a coaching education program developed by his or her school district or by the California Interscholastic Federation that meets those training requirements. The bill would make that requirement operative on December 31, 2008.

The bill would prohibit specified dietary supplements from being used by a pupil participating in interscholastic high school sports on or before July 1, 2006, with certain requirements. The bill would require the California Interscholastic Federation to amend its constitution and bylaws to require that school districts prohibit a pupil from participating in high school sports on and after July 1, 2007, unless that pupil signs a pledge not to use a prohibited dietary supplement and the parent or guardian of that pupil signs a notification form regarding those restrictions.

The bill would prohibit the marketing, as specified, of prohibited dietary substances on a schoolsite or at a school-related event.

(2) Existing law makes it a misdemeanor to furnish specified dietary supplements to a person under 18 years of age.

This bill would, in addition, pursuant to those provisions, make it a misdemeanor to furnish a dietary supplement containing synephrine to a person under 18 years of age, thereby creating a state-mandated local program by changing the definition of a crime.

Existing law exempts a retail establishment from being found guilty of that misdemeanor if specified conditions are met.

This bill would, in addition, exempt a retail establishment from any civil penalties if those conditions are met. The bill would provide that the exemption does not alter or affect any cause of action or remedy otherwise available to a consumer.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 35179.1 of the Education Code is amended to read:

35179.1. (a) This section shall be known and may be cited as the 1998 California High School Coaching Education and Training Program.

(b) The Legislature finds and declares all of the following:

(1) The exploding demand in girls athletics, and an increase in the number of pupils participating in both boys and girls athletics, are causing an increase in the number of coaches needed statewide.

(2) Well-trained coaches are vital to the success of the experience of a pupil in sports and interscholastic athletic activities.

(3) Improvement in coaching is a primary need identified by hundreds of principals, superintendents, and school board members who participated in the development of a strategic plan for the California Interscholastic Federation (CIF) in 1993 and 1994.

(4) There are many concerns about safety, training, organization, philosophy, communications, and general management in coaching that need to be addressed.

(5) It is a conservative estimate that at least 25,000 coaches annually need training and an orientation just to meet current coaching regulations contained in Title 5 of the California Code of Regulations, including basic safety and CPR requirements.

(6) School districts, in conjunction with the California Interscholastic Federation, have taken the initial first steps toward building a statewide coaching education program by assembling a faculty of statewide trainers composed of school district administrators, coaches, and athletic directors using a national program being used in several states.

(c) It is, therefore, the intent of the Legislature to establish a California High School Coaching Education and Training Program. It is the intent of the Legislature that the program be administered by local school districts and emphasize the following components:

(1) Development of coaching philosophies consistent with school, school district, and school board goals.

(2) Sport psychology: emphasizing communication, reinforcement of the efforts of young people, effective delivery of coaching regarding technique and motivation of the pupil athlete.

(3) Sport pedagogy: how young athletes learn, and how to teach sport skills.

(4) Sport physiology: principles of training, fitness for sport, development of a training program, nutrition for athletes, and the harmful effects associated with the use of steroids and performance-enhancing dietary supplements by adolescents.

(5) Sport management: team management, risk management, and working within the context of an entire school program.

(6) Training: certification in CPR and first aid.

(7) Knowledge of, and adherence to, statewide rules and regulations, as well as school regulations including, but not necessarily limited to, eligibility, gender equity and discrimination.

(8) Sound planning and goal setting.

(d) This section does not endorse a particular coaching education or training program.

SEC. 2. Article 6.5 (commencing with Section 49030) is added to Chapter 6 of Part 27 of the Education Code, to read:

Article 6.5. Performance-Enhancing Substances

49030. (a) Commencing July 1, 2006, dietary supplements, as defined by subsection (ff) of Section 321 of Title 21 of the United States Code, that include any of the following substances, are prohibited from being used by a pupil participating in interscholastic high school sports:

(1) Synephrine.

(2) A prohibited substance enumerated by the United States Anti-Doping Agency Guide to Prohibited Substances and Prohibited Methods of Doping.

~~(b) (1) The list shall annually be amended by the State Department of Health Services, if necessary, in order to conform to the United States Anti-Doping Agency Guide to Prohibited Substances and Prohibited Methods of Doping.~~

1 ~~(2) In order to be applicable for a school year, an amendment~~
2 ~~shall be submitted to the State Department of Education no later~~
3 ~~than the July 1 preceding that school year.~~

4 ~~(e) The State Department of Health Services shall notify the~~
5 ~~State Department of Education, which shall notify a school~~
6 ~~district that maintains any of grades 9 to 12, inclusive, of the~~
7 ~~completion or amendment of the list. The State Department of~~
8 ~~Education shall maintain the list on its Web site.~~

9 ~~(b) The State Department of Health Services shall provide the~~
10 ~~State Department of Education with the United States~~
11 ~~Anti-Doping Agency Guide to Prohibited Substances and~~
12 ~~Prohibited Methods of Doping, on or before June 30, 2006. Upon~~
13 ~~receipt of the guide, the State Department of Education shall~~
14 ~~notify each school district that serves pupils in grades 9 to 12,~~
15 ~~inclusive, that the guide has been completed and shall post the~~
16 ~~guide on its Web site. The State Department of Health Services~~
17 ~~shall submit any amendments to the guide no later than June 30~~
18 ~~of the year in which the amendments are made. Upon receipt of~~
19 ~~amendments to the guide, the State Department of Education~~
20 ~~shall notify each school district that serves pupils in grades 9 to~~
21 ~~12, inclusive, that the guide has been amended and shall post the~~
22 ~~amended guide on its Web site.~~

23 49031. (a) A dietary supplement prohibited by Section 49030
24 may not be marketed on a schoolsite or at a school-related event.

25 (b) For purposes of this section, “marketing” includes all of
26 the following:

27 (1) Direct product advertising.

28 (2) Athlete or event sponsorship, including sports clinic
29 sponsorship.

30 (3) Provision of educational materials.

31 (4) Product promotion by a school district employee or school
32 district volunteer.

33 (5) Product placement.

34 (6) Clothing or equipment giveaways.

35 (7) Scholarships.

36 49033. (a) (1) Effective December 31, 2008, each high
37 school sports coach shall have completed a coaching education
38 program developed by his or her school district or the California
39 Interscholastic Federation that meets the guidelines set forth in
40 Section 35179.1.

(2) The coaching education program described by paragraph (1) may be taught by an athletic director or high school sports coach who is deemed to be qualified by the California Interscholastic Federation.

(b) Upon completion of the program, a high school sports coach shall be deemed to have completed the education requirement for the remainder of his or her time coaching at the high school level in any school district in the state.

(c) Each high school sports coach shall be responsible for the costs of taking the course.

(d) The training requirements of this section shall count toward the continuing education required for the renewal of the teaching credential of a coach who is also a certificated employee.

(e) Notwithstanding subdivision (a), a high school sports coach who does not meet the requirements of subdivision (a) may be used for no longer than one season of interscholastic competition.

(f) For the purposes of this section, “high school sports coach” means an employee or a volunteer who is authorized by a high school to be responsible for leading a school sports team of pupil athletes.

49035. The California Interscholastic Federation shall amend its constitution and bylaws to require, as a condition of participation in interscholastic sports, that school districts effective July 1, 2007, upon the notification provided pursuant to subdivision ~~(a) of Section 49032~~ *(b) of Section 49030*, prohibit a pupil from participating in interscholastic high school sports, unless that pupil signs a pledge not to use a dietary supplement prohibited by Section 49030 and the parent and guardian of that pupil signs a notification form regarding those restrictions.

SEC. 3. Section 110423.2 of the Health and Safety Code is amended to read:

110423.2. (a) It is a misdemeanor for any manufacturer, wholesaler, retailer, or other person, to sell, transfer, or otherwise furnish any of the following to a person under 18 years of age:

(1) A dietary supplement containing an ephedrine group alkaloid.

(2) A dietary supplement containing any of the following:

(A) Androstenediol.

- 1 (B) Androstanedione.
- 2 (C) Androstenedione.
- 3 (D) Norandrostenediol.
- 4 (E) Norandrostenedione.
- 5 (F) Dehydroepiandrosterone.
- 6 (G) Synephrine.

7 (b) A seller shall request valid identification from any
8 individual who attempts to purchase a dietary supplement set
9 forth in subdivision (a) if that individual reasonably appears to
10 the seller to be under 18 years of age.

11 (c) Notwithstanding subdivisions (a) and (b), a retail clerk who
12 fails to request identification pursuant to subdivision (b) shall not
13 be guilty of a misdemeanor pursuant to subdivision (a), subject to
14 any civil penalties, or subject to any disciplinary action or
15 discharge by his or her employer. This subdivision shall not
16 apply to a retail clerk who is a willful participant in an ongoing
17 criminal conspiracy to violate this article.

18 *SEC. 4. Section 110423.6 of the Health and Safety Code is*
19 *amended to read:*

20 110423.6. (a) Except as provided in subdivision (b), a retail
21 establishment that sells, transfers, or otherwise furnishes a
22 dietary supplement product in violation of Section 110423.2 shall
23 not be guilty of a misdemeanor pursuant to subdivision (a) of
24 Section 110423.2, *or be subject to any civil penalties*, if all of the
25 following conditions are met:

26 (1) Every checkout clerk at the retail establishment has
27 completed standardized training that includes, but is not limited
28 to, the law with respect to selling dietary supplement products
29 subject to this article, methods of easily identifying dietary
30 supplement products subject to this article when checking out
31 customers, and procedures for requesting identification from any
32 customer attempting to purchase dietary supplement products
33 subject to this article who reasonably appears to the clerk to be a
34 minor.

35 (2) Every checkout clerk at the retail establishment is provided
36 with training updates that cover any changes in the law with
37 respect to selling dietary supplement products subject to this
38 article and any other responsibilities of the retail establishment
39 under this article.

(3) Every programmable checkout scanner or computer used to check out customers with purchases is programmed to identify dietary supplement products subject to this article at the checkout station. A retail establishment that does not use programmable checkout scanners or computers is not required to satisfy this condition.

(4) Every checkout clerk has received a written list of dietary supplement products subject to this article that are sold by the retail establishment that may be posted at the checkout station for easy access.

(b) Notwithstanding the fact that a retail establishment has met all of the conditions specified in subdivision (a), the retail establishment shall be guilty of a misdemeanor pursuant to subdivision (a) of Section 110423.2 if the retail establishment violates this article three or more times in a 12-month period.

(c) Subdivision (a) does not alter or affect any cause of action or remedy otherwise available to a consumer under the law.

~~SEC. 4.~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.